

No. 9/5/84-6Lab/4137.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak in respect of the dispute between the Workmen and the management of (i) General Manager, Haryana Roadways Sonapat, (ii) State Transport Controller, Haryana, Chandigarh.

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 156 of 84

between

SHRI SURAJ BHAN, WORKMAN AND THE MANAGEMENT OF (i) GENERAL MANAGER, HARYANA ROADWAYS, SONEPAT, (ii) STATE TRANSPORT CONTROLLER, HARYANA, CHANDIGARH

Shri S.N. Vats, A.R. for the workman.

Shri N.C. Jain, A.R. for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute, between the workman Shri Suraj Bhan and the management of (i) General Manager, Haryana Roadways, Sonapat, (ii) State Transport Controller, Haryana, Chandigarh, to this Court, for adjudication,—vide Labour Department, Gazette Notification No. 32729-35, dated 30th August, 1984:—

Whether the termination of services of Shri Suraj Bhan is justified and in order? If not, to what relief is he entitled?

2. On receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the workman is that he was employed with the respondent on 1st January, 1982 as a Chowkidar but his services were terminated by the respondent on 15th September, 1983 in flagrant disregard of the provisions of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act).

3. In the reply filed by the respondent it was alleged that the workman was employed on daily wages initially for a period of one month from 1st April, 1982 to 30th April, 1982 and continued to be employed as such upto 15th September, 1983, on the same terms and conditions. The main plea is that the applicant was appointed for a specific period, after the expiry of which his services stood terminated automatically and as such, provisions of section 25F of the said Act were not attracted.

4. On the pleadings of the parties, the following issue was framed on 2nd January, 1985 :—

(1) Whether the termination of services of Shri Suraj Bhan is justified and in order? If not, to what relief is he entitled?

5. The workman appeared as his own witness and the management examined MW-1 Shri Shadi Lal, Assistant, Haryana Roadways, Sonapat.

6. Heard.

7. Undisputedly, the workman has since been reinstated by the management with effect from 18th February, 1985, so, the question of reinstatement of the workman is not in dispute. The question which survives for consideration is of backwages and continuity of service. On behalf of the respondent Shri Jain forcefully contended that since appointment of the workman was for a specific period and his service stood automatically terminated after the expiry of the same, the workman cannot take advantage of the provisions of section 25F of the said Act. In my opinion, there is no force in this contention, because the workman remained employed continuously from the date of his appointment till the date of his termination, though the management choose to pass orders of extension of his employment in dribblets,—vide Ex. M-1 to M-17. This is an unfair labour practice adopted by the respondent probably under the impression that in this way the workman shall be deprived of the rights accruing to him under section 25F of the said Act. If a vacancy was available with the respondent, the respondent was not justified in granting extension in employment to the workman in dribbled. Under these circumstances, there is no question of depriving the workman of the back wages. So, the workman is awarded back wages that he would have been entitled, had he continued in service from the date of his termination to the date of his reinstatement. He shall have also the benefit of continuity of service. The reference is answered and returned accordingly. There is no order as to cost.

Dated the 3rd May, 1985.

B. P. JINDAL,

Presiding Officer,
Labour Court, Rohtak.

Endorsement No. 156/84/771, dated 11th May, 1984.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,

Presiding Officer,
Labour Court, Rohtak.